

**REMARKS**

This is in full and timely response to the Office Action mailed on May 29, 2007.

Claims 30-45 are currently pending in this application, with claim 30 being independent. *No new matter has been added.*

Reexamination in light of the following remarks is respectfully requested.

**Claim rejections**

While not conceding the propriety of these objections and in order to advance the prosecution of the above-identified application, claims 12-13 and 15-29 have been canceled.

Withdrawal of these rejections is respectfully requested.

**Newly added claims**

**Claims 30-45** - Claims 31-45 are dependent upon claim 30. Claim 30 is drawn to an optical system having an optical module, the optical module comprising:

an optical element including a light receiving portion, said light receiving portion being between a shielding layer and a lens;

an optical filter between said lens and a diaphragm portion of a lens barrel, an opening through said diaphragm portion exposing said optical filter;

a plate between said lens barrel and a wiring board, said wiring board being between said optical element and said plate,

wherein said plate is of a first material, said wiring board being of a material other than said first material,

wherein said light receiving portion and said lens are disposed along an optical axis,

wherein a through-hole extends through said lens barrel, said plate, and said wiring board,

wherein said optical axis extends through said opening, said optical filter, and said through-hole.

In rejecting the claims, the Office Action relies upon U.S. Patent No. 5,130,804 to Tamura et al. (**Tamura**), U.S. Patent No. 6,147,389 to Stern et al. (**Stern**), Japanese Application Publication No. 07-212633 (**Kawabe**), U.S. Patent No. 7,133,076 to **Campbell**, U.S. Patent No. 5,777,335 to Mochizuki et al. (**Mochizuki**), U.S. Patent No. 6,011,860 to Fujieda et al. (**Fujieda**), U.S. Patent No. 5,821,532 to Beaman et al. (**Beaman**).

However, these seven references taken individually or as a whole fail to disclose, teach, or suggest an optical filter between said lens and a diaphragm portion of a lens barrel, an opening through said diaphragm portion exposing said optical filter.

Moreover, Campbell was filed on December 22, 1999. The above-identified application is entitled to benefit of the filing date of September 3, 1999 for Japanese Patent Application No. P11-249473 and is entitled to benefit of the filing date of October 29, 1999 for Japanese Patent Application No. P11-308312. However, the filing date for Campbell of December 22, 1999 is later than either filing date for the Japanese Patent Applications of September 3, 1999 and October 29, 1999.

Campbell appears to claim the benefit of provisional application No. 60/113,850 (the Campbell Provisional Application). The filing date for the Campbell Provisional Application of December 24, 1998 is earlier than the priority date for the Japanese Patent Applications of September 3, 1999 and October 29, 1999.

The Office Action cites Figure 2A, 2B, column 2, line 62 to column 3, line 46, and column 4, lines 10-58 of Campbell (Office Action at pages 7 and 15).

However, the term “prior art” as used in section 103 refers at least to the statutory material named in 35 U.S.C. §102. *Riverwood International Corp. v. R.A. Jones & Co.*, 324 F.3d 1346, 66 USPQ2d 1331 (Fed. Cir. 2003)(citing *In re Wertheim*, 646 F.2d 527, 532, 209 USPQ 554, 560 (CCPA 1981)).

The 35 U.S.C. 102(e) critical reference date of a U.S. patent or U.S. application publications and certain international application publications entitled to the benefit of the filing date of a provisional application under 35 U.S.C. 119(e) is the filing date of the provisional application with certain exceptions >if the provisional application(s) properly supports the subject matter relied upon to make the rejection in compliance with 35 U.S.C. 112, first paragraph<. M.P.E.P. §2163.03(III).

Here, the Office Action has failed to show that the Campbell Provisional Application properly supports the subject matter within the Office Action relied upon within Campbell to make the rejection in compliance with 35 U.S.C. 112, first paragraph

Allowance of the claims is respectfully requested.

### **Conclusion**

For the foregoing reasons, all the claims now pending in the present application are allowable, and the present application is in condition for allowance. Therefore, this response is believed to be a complete response to the Office Action.

Applicants reserve the right to set forth further arguments supporting the patentability of their claims, including the separate patentability of the dependent claims not explicitly addressed herein, in future papers.

There is no concession as to the veracity of Official Notice, if taken in any Office Action. An affidavit or document should be provided in support of any Official Notice taken. 37 CFR 1.104(d)(2), MPEP § 2144.03. See also, *Ex parte Natale*, 11 USPQ2d 1222, 1227-1228

(Bd. Pat. App. & Int. 1989)(failure to provide any objective evidence to support the challenged use of Official Notice constitutes clear and reversible error).

Accordingly, favorable reexamination and reconsideration of the application in light of the remarks is courteously solicited.

**Extensions of time**

Please treat any concurrent or future reply, requiring a petition for an extension of time under 37 C.F.R. §1.136, as incorporating a petition for extension of time for the appropriate length of time.

**Fees**

The Commissioner is hereby authorized to charge all required fees, fees under 37 C.F.R. §1.17, or all required extension of time fees. If any fee is required or any overpayment made, the Commissioner is hereby authorized to charge the fee or credit the overpayment to Deposit Account # 18-0013.

If the Examiner has any comments or suggestions that could place this application in even better form, the Examiner is requested to telephone Brian K. Dutton, Reg. No. 47,255, at 202-955-8753.

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Respectfully submitted

By

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